IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Income Tax Application No. 363 of 1999
The Commissioner of Income-tax, Mumbai .. Applicant
V/s.
Prestress (I) P. Ltd., Mumbai .. Respondent

Mr. G. Hariharan for the Applicant
None resent for the Respondent

CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 04.07.2005.

P.C.:-

1. Heard the learned counsel for the Applicant. In the above, the Applicant is seeking to raise the following substantial question of law:-

> "Whether on the facts and circumstances of the case the ITAT was justified in law in deleting the addition made to the closing stock on account of the element of Modvat embedded in it?"

2. We have perused the judgment of the Supreme Court in **Commissioner of Income tax v. Indo Nippon Chemicals Co. Ltd. (2003) Vol. 261 ITR 275**, wherein the Supreme Court has clearly held that Modvat credit available to assessee for manufacture of the goods with duty paid raw materials can not be treated as income liable to be taxed. Under these circumstances, we do not find any substantial question of law involved in the above, the Application stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)